

§ 1862.4

U.S.C. 81), or the Act of June 22, 1910 (36 Stat. 583; 30 U.S.C. 83-85), such land having subsequently been finally classified as non-coal character.

§ 1862.4 Patent to be withheld pending report from Forest Service.

In no claim, mineral or non-mineral, shall patent issue for land within a national forest until the Bureau of Land Management is notified by, or ascertains from, the Forest Service, that the claim will not be contested. A claim may be contested by the Forest Service at any time prior to the issuance of patent.

§ 1862.5 Suits to vacate and annul patents.

(a) Suits to vacate and annul patents shall only be brought within 6 years after the date of the issue of such patents (26 Stat. 1093; 43 U.S.C. 1166).

In cases of fraud, the statute has been construed not to commence to run "until discovery of the fraud." *Exploration Co., Limited, et al. v. United States* (247 U.S. 435, 62 L. ed. 1200).

§ 1862.6 Patent to issue after 2 years from date of manager's final receipt.

(a) The decision of the Supreme Court of the United States in *Thomas J. Stockley et al., appellants, v. the United States*, decided January 2, 1923 (260 U.S. 532, 67 L. ed. 390) holds that after the lapse of 2 years from the date of the issuance of the "receiver's receipt"¹ upon the final entry of any tract of land under the homestead, or desert-land laws, such entry, entitled to patent under the proviso to section 7 of the Act of March 3, 1891 (26 Stat. 1098; 43 U.S.C. 1165), regardless of whether or not the manager's final certificate has issued.

(b) The Supreme Court of the United States in *Payne v. U.S. ex rel. Newton* (255 U.S. 438, 65 L. ed. 720), decided that Newton was entitled to a patent on his homestead entry under the proviso to section 7 of the Act of March 3, 1891, 2 years having elapsed from the date of the issuance of the receiver's final receipt upon final entry, and there being

¹The receipts formerly issued by the receivers are now issued by the managers.

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no contest or protest pending against the validity of the entry, but stated that the purpose of the statute was:

To require that the right to a patent which for 2 years has been evidenced by a receiver's receipt, and at the end of that period stands unchallenged, shall be recognized and given effect by the issue of the patent without further waiting or delay, and thus to transfer from the land officers to the regular judicial tribunals the authority to deal with any subsequent controversy over the validity of the entry, as would be the case if the patent were issued in the absence of the statute.

CROSS REFERENCES: For mineral reservations, see subpart 2093 of this chapter; for rights-of-way for roadways, see part 2800 of this chapter.

Subpart 1863—Other Title Conveyances

AUTHORITY: R.S. 2478; 43 U.S.C. 1201.

§ 1863.5 Title transfer to the Government.

§ 1863.5-1 Evidence of title.

Evidence of title, when required by the regulations, must be submitted in such form and by such abstractor or company as may be satisfactory to the Bureau of Land Management. A policy of title insurance, or a certificate of title, may be accepted in lieu of an abstract, in proper cases, when issued by a title company. A policy of title insurance when furnished must be free from conditions and stipulations not acceptable to the Department of the Interior. A certificate of title will be accepted only where the certificate is made to the Government, or expressly for its benefit and where the interests of the Government will be sufficiently protected thereby.

[35 FR 9533, June 13, 1970]

CROSS REFERENCE: For evidence of title in mining cases, see § 3862.1-3 of this chapter.

Subpart 1864—Recordable Disclaimers of Interest in Land

SOURCE: 49 FR 35297, Sept. 6, 1984, unless otherwise noted.